

Updated 9/11 Health and Compensation Act Introduced in House

Thursday, 24 July 2008

Washington, D.C. – Today, New York Reps. Carolyn Maloney, Jerrold Nadler, Vito Fossella, Peter King, Charles Rangel, Eliot Engel, Edolphus Towns, and Anthony Weiner introduced an updated version of their bipartisan 9/11 Health and Compensation Act.

The new bill (H.R. 6594) will provide medical monitoring to those exposed to the toxic aftermath of the World Trade Center attacks, and

treatment and compensation to those who are sick or injured as a result. Generally, the updates to the bill would help reduce the cost of providing 9/11-related health care and compensation.

After conferring with Speaker Pelosi and the leadership of both committees of jurisdiction, the New York lawmakers decided that changes were needed to sharpen the scope of the proposal and make it more likely that the House could consider the bill by the 7th anniversary of 9/11.

Following the introduction of the revised bill, Maloney, Nadler, Fossella, and King issued the following joint statement:

“This bill is our best attempt, working with the City of New York, the AFL-CIO, and the local community, to put forth a bill that the House could approve by the seventh anniversary of the 9/11 attacks. The sensible changes in our updated bill will help reduce costs while upholding our nation’s moral responsibility to provide medical monitoring to those exposed to Ground Zero toxins, treatment to all who are sick, and compensation to those who sustained economic losses because of 9/11. We urge our colleagues to help us pass this bill and ensure a strong federal response to the public health disaster caused by the 9/11 terrorist attacks.”

The House Energy and Commerce Committee Subcommittee on Health announced it will hold a hearing on the updated bill next Thursday, July 31, 2008 at 10:00 a.m. in room 2322 Rayburn House Office Building.

A summary of the new legislation with changes from original bill follows.

Summary of H.R. 6594, the Updated 9/11 Health and Compensation Act

and comparison to H.R. 3543

The 9/11 Health and Compensation Act (H.R. 6594) would establish a permanent program to provide medical monitoring/screening to eligible responders and community members (area workers, residents, and students) who were exposed to World Trade Center (WTC) toxins, and medical treatment to those who are sick with World Trade Center-related health conditions. The program would be delivered primarily through Centers of Excellence, building on their expertise with World Trade Center-related health conditions and ensuring ongoing data collection and analysis to evaluate health risks. The legislation would include eligible members of the community who were exposed to World Trade Center toxins, who were included in federally funded monitoring and treatment programs for FY 08.

The bill would also reopen the 9/11 Victim Compensation Fund (VCF) to provide compensation for economic losses and harm as an alternative to the current litigation system.

The major changes from H.R. 3543 to H.R. 6594 are as follows:

- A reduced geographic area and smaller potential population covered by the bill (i.e. to those who worked at the WTC site or who lived or worked in lower Manhattan, south of Houston Street or in Brooklyn within a 1.5 mile radius of the WTC site, for certain defined time periods).
- A higher standard of causation or association for determining that a health condition is World Trade Center-related.
- Increased specificity and uniformity in the process for assessing and determining whether a condition is related to World Trade Center exposures.
- Specifying in the legislation the conditions that have been identified as World Trade Center-related for residents and the community members.
- Setting a cap on the program participation at 35,000 additional responders and 35,000 additional community members.
- Establishing a capped contingency fund to pay the cost of WTC-related health claims that may arise in individuals who fall outside the more limited definition of the eligible population included in the revised bill.

- Requiring that applicable health insurance be the first payor for World Trade Center conditions that are not work-related, (in addition to the original requirement that any workers' compensation awards be offset or recouped) and providing assistance for filing for workers' compensation and other benefits to help offset program costs.

- Setting reimbursement rates for medical treatment costs based upon Medicare fee schedules.

- Requiring a 5 percent cost share by the City of New York for medical monitoring/screening and treatment costs for WTC-related conditions provided through Clinical Center of Excellence within the New York City Health and Hospitals Corporation.

- Eliminating claims for mental health only conditions under the VCF, as was the case with the original fund.

- Providing federal government indemnification for construction contractors and the City of New York for pending and future claims and liability related to the rescue and recovery efforts in response to the September 11, 2001 World Trade Center attacks. The indemnification for the City of New York would not apply unless the WTC Captive Insurance Company is dissolved and remaining funds returned to the United States Treasury.

- Providing for the federal government to seek recovery from any existing insurance coverage for any indemnity payments that are made.

Specifically, the 9/11 Health and Compensation Act (H.R. 6594) would do the following:

Establish the World Trade Center Health Program, within the National Institute for Occupational Safety and Health (NIOSH), to provide medical monitoring and treatment for WTC-related conditions to WTC responders and community members. The program will be administered by the Director of NIOSH or his designee. The bill would also establish the WTC Health Program Scientific/Technical Advisory Committee to review and make recommendations on scientific matters and the World Trade Center Health Program Steering Committees to facilitate the coordination of the medical monitoring and treatment programs for responders and the community.

The WTC Program Administrator is required to develop and implement a program to ensure the quality of medical monitoring and treatment and a program to detect fraud; to submit an annual report to Congress on the operation of the program; and to provide notification to the Congress if program participation has reached 80 percent of the program caps.

Establish a medical monitoring and treatment program for WTC responders and a medical monitoring/screening and treatment program for the community to be delivered through Clinical Centers of Excellence and coordinated by Coordinating Centers of Excellence. The bill identifies the Centers of Excellence with which the program administrator enters into contracts, and provides for additional clinical centers and providers to be added. The specified Clinical Centers of Excellence, which provide monitoring and treatment, are FDNY, all members of the Mt. Sinai coordinated consortium (currently Mt. Sinai, Queens College, Bellevue, SUNY Stony Brook, University of Medicine and Dentistry of New Jersey), the WTC Environmental Health Center at Bellevue Hospital, and other facilities identified by the program administrator in the future. All of these clinical centers participate in the responder program, and the Bellevue Hospital participates in the community program.

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The Coordinating Centers of Excellence collect and analyze uniform data, coordinate outreach, develop the medical monitoring and treatment protocols, and oversee the steering committees for the responder and community health programs. The coordinating centers designated in the bill are FDNY and Mt. Sinai, which help coordinate the responder program, and the WTC Environmental Health Center at Bellevue Hospital which helps to coordinate the community program.

Provide Monitoring and Treatment for WTC Responders in the NY area: If a responder is determined to be eligible for monitoring based on the monitoring eligibility criteria provided for in the bill, then that responder has a right to medical monitoring that is paid for by the program. Once a responder is in monitoring, if the physician at a Clinical Center of Excellence diagnoses a condition that is on the list of identified WTC-related health conditions in the bill, and the physician determines that exposure to WTC toxins or hazards is substantially likely to be a significant factor in causing the condition, then that responder has a right to treatment for that condition that is paid for by the program, offset by any workers' compensation payments. NIOSH reviews these physician determinations, makes eligibility determinations and provides certification for ongoing treatment.

The WTC program administrator may add a condition to the list of identified WTC-related health conditions, taking into account published findings and recommendations of the Clinical Centers of Excellence, with the input of the WTC Health Program Scientific/Technical Advisory Committee, the WTC Health Program Steering Committees and the public. In addition, if the physician diagnoses a condition that is not on the current list of identified conditions and finds that the substantially likely to be related to exposure at Ground Zero, then

the program administrator, after review by an independent expert physician panel, can determine if the condition can be treated as a WTC-related condition.

The program pays for the costs for medical treatment for certified WTC-related health conditions at a payment rate based on Medicare rates. These costs are to be offset by any workers' compensation payments for medical treatment for work-related WTC-related health conditions.

The bill sets a cap of 35,000 additional participants in the responder medical monitoring and treatment program, over the number of current participants certified as eligible by the WTC program administrator.

Provide Monitoring /Screening and Treatment for eligible community members: The bill establishes a community program to provide monitoring or screening and medical treatment to eligible community members. It sets forth geographic and exposure criteria for defining the potential population who may be eligible for the program (i.e. those who lived, worked or were present in lower Manhattan, South of Houston Street or in Brooklyn within a 1.5 mile radius of the WTC site for certain defined time periods). It provides for the program administrator in consultation with the WTC Environmental Health Center at Bellevue Hospital to develop more defined eligibility criteria based on exposures and the best scientific evidence. The criteria and procedures for determinations of eligibility, diagnosing WTC-related health conditions and certification are the same as for those in the responder health program.

For those WTC-related health conditions certified for medical treatment that are not work-related, the WTC program is the secondary payor to any applicable public or private health insurance. For those costs not covered by other insurance, the program pays for the costs for medical treatment for certified WTC-related health conditions at a payment rate based on Medicare rates. The City of New York pays 5 percent of the cost for medical treatment for WTC-related health conditions delivered by a Clinical Center of Excellence within the New York City Health and Hospitals Corporation.

The bill sets a cap of 35,000 additional participants in the community medical monitoring and treatment program for residents and non-responders, over the number of current participants certified as eligible by the WTC program administrator.

There is a contingency fund of \$20 million per year established to pay the cost of WTC-related health claims that may arise in individuals who fall outside the more limited definition of the population eligible for the community program included in the revised bill.

Provide Monitoring and Treatment for eligible individuals outside of the NY area: The program administrator will establish a nationwide network of providers so that eligible individuals who live outside of the NY area can reasonably access monitoring and treatment benefits near where they live. These eligible individuals are included in the caps on the number of participants in the responder and community programs.

Provide for Research into Conditions: In consultation with the Program Steering Committee and under all applicable privacy protections, HHS will conduct or support research about conditions that may be WTC-related, and about diagnosing and treating WTC-related conditions.

Extend support for NYC Department of Health and Mental Hygiene programs: NIOSH would extend and expand support for the World Trade Center Health Registry and provide grants for the mental health needs of individuals who are not otherwise eligible for services under this bill.

Reopen the September 11 Victim Compensation Fund (VCF): The fund would be reopened to provide compensation for economic damages and loss for individuals who did not file before or became ill after the original December 22, 2003 deadline. The bill would allow for adjustment of previous awards if the Special Master of the fund determines the medical conditions of the claimant warrants an adjustment and amend eligibility rules so that responders to the 9/11 attacks who arrived later than the first 96 hours could be eligible if they experienced illness or injury from their work at the site.

Provide Indemnity to Construction Contractors and the City of New York:
The bill would provide indemnity for pending and future claims and liability related to the rescue and recovery efforts in response to the September 11, 2001 World Trade Center attacks. The federal government is authorized to seek recovery from any existing insurance coverage for any indemnity payments that are made.

The indemnification for the City of New York would not apply unless the WTC Captive Insurance Company established in 2003 with \$1 billion in federal funds, is dissolved and remaining funds are returned to the United States Treasury.

